

Hon. Fred Van Sickle

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*Attorneys for Defendants Impulse Marketing Group, Inc.,**Jeffrey Goldstein, Phillip Huston and Kenneth Adamson*

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WASHINGTON  
AT RICHLAND

James S. Gordon, Jr.,

Plaintiff,

v.

Impulse Marketing Group, Inc.,  
Jeffrey Goldstein, Phillip Huston,  
and Kenneth Adamson,

Defendants.

Case No.: CV-04-5125-FVS

[PROPOSED] ORDER DISMISSING  
PLAINTIFF'S SECOND  
AMENDED FIRST AMENDED  
COMPLAINT

Impulse Marketing Group, Inc.,

Third-Party Plaintiff,

v.

Bonnie F. Gordon, Jamila Gordon,  
James Gordon, III, and Jonathan  
Gordon,

Third-Party Defendants.

THIS MATTER comes before the Court on the Motion to Dismiss the Second  
Amended First Amended Complaint under Fed. R. Civ. 12(b)(1), (2) and (6) and 41(b)

PROPOSED ORDER, DEFENDANTS' MOTION  
TO DISMISS THE AMENDED FIRST AMENDED COMPLAINT  
AND TO STRIKE THE MORE DEFINITE STATEMENT - 1  
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1 filed by Defendants. The Court hereby finds as follows:

2 Defendants' Motion to Dismiss Pursuant to 41(b):

3 1. Plaintiff failed to comply with this Court's order denying his request to  
4 add new plaintiffs to the action.

5 2. Plaintiff failed to comply with Fed. R. Civ. P. 15 by filing the Second  
6 Amended Complaint without leave of Court or consent of the parties.

7 3. Plaintiff failed to comply with Fed. R. Civ. P. 12(e) by filing his More  
8 Definite Statement nearly one (1) month late and as a separate document without  
9 reference to the Amended First Amended Complaint.

10 4. Plaintiff failed to comply with the Court's May 14, 2007 Order requiring  
11 him to provide a more definite statement.

12 5. Plaintiff's counsel failed to comply with the Court's order to pay  
13 sanctions to Defendants in the amount of One Thousand Five Hundred (\$1,500).

14 6. Plaintiff failed to comply with the Court's July 9, 2007 Order by filing an  
15 amended pleading failing to set forth the particulars as required by the Order.

16 Defendants' Motion to Dismiss Pursuant to 12(b)(1), (2) and (6):

17 7. Plaintiff, an individual, lacks standing to assert the matters complained of  
18 in his First Cause of Action.

19 8. Plaintiff, an individual, is neither an "interactive computer service" as  
20 defined in RCW § 19.190, *et seq.*, nor an "internet access service" as defined in  
21 U.S.C. § 7701, *et seq.*, and therefore lacks standing as an interactive computer service or  
22 internet access service to assert the matters complained of in his First and Second  
23 Causes of Action.

24 9. After due deliberation his Court has determined that it lacks jurisdiction  
25 over the persons of Jeffrey Goldstein, Kenneth Adamson and Phillip Huston.

26 10. After due deliberation, this Court has determined that the Second

1 Amended First Amended Complaint fails to state a claim on which relief may be  
2 granted.

3 WHEREFORE, it is hereby ORDERED that:

- 4 a. The motion to dismiss the Second Amended First Amended Complaint is  
5 GRANTED.  
6 b. The clerk will enter a judgment dismissing this action with prejudice and  
7 awarding Defendant his costs.

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9 DATED this \_\_\_\_ day of \_\_\_\_\_, 2007.

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12 Hon. Fred Van Sickle  
United States District Court Judge  
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